

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF MASSACHUSETTS

GILBERTO PEREIRA BRITO,  
FLORENTIN AVILA LUCAS, and JACKY  
CELICOURT, individually and on behalf of  
all those similarly situated,

*Plaintiffs-Petitioners,*

v.

WILLIAM BARR, et al.,

*Defendants-Respondents.*

Case No. 19-11314-PBS

**FILED UNDER SEAL**

**AFFIDAVIT OF MELANIE M. CHAPUT, ESQ.**  
**WITH REGARD TO JACKY CELICOURT**

1. I am an immigration attorney and have been practicing immigration law since 1999. My law office is located in Nashua, New Hampshire.
2. I represent Jacky Celicourt in proceedings before the Boston Immigration Court. This affidavit is being prepared based on my personal knowledge and my work on Mr. Celicourt's case, including a review of various documents relating to it. All documents attached as exhibits to this declaration are true and accurate copies.
3. Mr. Celicourt was born in Haiti and is 37 years old. [REDACTED]  
[REDACTED] See Ex. A (Celicourt Decl.).
4. Mr. Celicourt was politically active in Haiti [REDACTED]  
[REDACTED]

5. In November 2017, Mr. Celicourt was attacked by armed men in a black truck. *See* Ex. A (Celicourt Decl.). The men tried to run over him and fired guns at him. *See id.* They came back around with their truck and continued to look for him. *See id.* Mr. Celicourt escaped that incident by hiding for many hours, first under a car, and then in some tall grass. *See id.* As he hid, he could hear the men saying that they were going to find and kill him. *See id.*
6. Mr. Celicourt fled his home after that incident. *See* Ex. A (Celicourt Decl.). A few weeks later, he left Haiti for the Dominican Republic. *See id.* But he did not feel safe there either.
7. On March 12, 2018, Mr. Celicourt arrived in the United States with a tourist visa.
8. Since approximately April 2018, he has lived in Nashua, New Hampshire, working in construction and roofing.
9. On December 13, 2018, Mr. Celicourt was arrested in Nashua, New Hampshire, and charged with Theft by Unauthorized Taking Between \$0 and \$1,000. *See* Ex. B (docket). The charge arose from an allegation that, during a shopping trip at a discount store, he purchased several items (gloves and socks), but failed to pay for a pair of “earbud” headphones that cost \$5.99. *See* Ex. C (police report). Mr. Celicourt was released on personal recognizance. *See* Ex. D (bail order).
10. On January 16, 2019, Mr. Celicourt appeared in court in Nashua, New Hampshire, for arraignment on the shoplifting charge. *See* Ex. B (docket). He pled guilty and was fined \$310.00. *See id.* Court staff have informed my office that the fine is suspended for one year.
11. Mr. Celicourt does not have a criminal record, other than this one dispute over merchandise worth less than \$6.00.
12. ICE arrested Mr. Celicourt on January 16, 2019, as he walked out of the courtroom. That same day, ICE made a custody determination that Mr. Celicourt would be detained during his removal proceedings. *See* Ex. E (Form I-286). ICE issued a Notice to Appear to Mr. Celicourt dated January 24, 2019. *See* Ex. F (NTA).

13. Mr. Celicourt requested a bond hearing before an immigration judge. The hearing occurred on February 7, 2019, in the Boston Immigration Court. I represented him at this hearing. The immigration judge required that, in order to be released on bond, Mr. Celicourt bear the burden to prove that he is not a danger or flight risk. *See* Ex. G (bond hearing transcript).
14. In connection with the bond hearing, I submitted information including letters of support and the docket and police report from his case in New Hampshire. *See* Exs. B, C, & H. I also submitted a written motion containing further information about the Mr. Celicourt's personal background and the day of his arrest. *See* Ex. I (bond motion). Among other things, this motion explained that, on the day of his arrest, Mr. Celicourt was at a discount store purchasing a pair of socks and gloves. *See id.* He also decided to purchase a pair of earbuds worth \$5.99. *See id.* He then used the earbuds to answer a call while still walking through the store, and placed them in his pocket at the conclusion of the call. *See id.* At the checkout area, he purchased the socks and gloves, but forgot that the earbuds were in his pocket. *See id.* When confronted by the store clerk, he offered to pay for them. *See id.* She asked him for his identification. *See id.* On seeing his Haitian identification, she told him, "I don't want your money, I want you deported back to your country" or words to that effect, and then she called the police. *See id.*
15. In addition to these written submissions, two friends of Mr. Celicourt were in the courtroom during his bond hearing and were prepared to testify on his behalf.
16. The immigration judge denied bond. *See* Ex. J (bond order). In his oral explanation of the decision, the immigration judge cited as grounds that (1) Mr. Celicourt had overstayed his visa; (2) that Mr. Celicourt had worked without authorization; and (3) that Mr. Celicourt had been convicted of taking earbuds worth \$5.99, which, according to the immigration judge, "appears to be a crime involving moral turpitude." *See* Ex. G (bond hearing transcript).
17. Based on these factors, the immigration judge found Mr. Celicourt had "failed to prove he's not a danger to property or a flight risk." *See* Ex. G (bond hearing transcript).

18. On February 21, 2019, I submitted an application on Mr. Celicourt's behalf for asylum, withholding of removal and protection under the Convention Against Torture, based on the high probability that, if he is removed to Haiti, he will be persecuted or tortured based on his political activities.
19. An evidentiary hearing on that application was held on April 10, 2019. Mr. Celicourt's affidavit, submitted with that application, is attached as Exhibit A. He also provided additional information through testimony.
20. At that hearing, the immigration judge found that Mr. Celicourt was "a credible witness." Nevertheless, the immigration judge denied Mr. Celicourt's applications for asylum, withholding of removal, and protection under the Convention Against Torture, and ordered him removed to Haiti. *See Ex. K (denial and removal order).*
21. On May 9, 2019, on Mr. Celicourt's behalf, I filed an appeal of the immigration judge's denial of relief and order of removal. *See Ex. L (Notice of Appeal).* That appeal remains pending, and no briefing schedule has yet been set by the BIA. My understanding is that the record of the proceedings is being assembled for the appeal, and, once it is ready, briefing deadlines will be set. After briefs are filed, the BIA will likely take several months or more to resolve the case. At that point, if the BIA agrees that the immigration judge erred, it may remand the case to him for a new hearing, which could be followed by additional appeals. If the BIA affirms the decision of the immigration judge, then Mr. Celicourt may petition for review of that decision to the U.S. Court of Appeals for the First Circuit.
22. Mr. Celicourt has been held in immigration detention continuously since January 16, 2019, pursuant to 8 U.S.C. § 1226(a). Without an adequate bond hearing, he will likely remain detained throughout the pendency of his immigration proceedings. He has already been in jail for more than six months.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

  
Melanie M. Chaput

June 17, 2019  
Date

# Exhibit A

Exhibit Intentionally Excluded

# Exhibit B

## 9TH CIRCUIT - DISTRICT DIVISION - NASHUA

**CASE SUMMARY****CASE NO. 459-2019-CR-00025**

State v. Jacky Celicourt



§  
§  
§  
§  
§Location: 9th Circuit - District Division -  
Nashua

Filed on: 12/28/2018

**CASE INFORMATION**


<b>Offense</b>	<b>Statute</b>	<b>Deg</b>	<b>Date</b>	<b>Case Type:</b>	<b>Criminal</b>
Jurisdiction: Nashua					
1. Theft by Unauthd Taking \$0-\$1000	637:3	VIOL	12/13/2018	Case	01/16/2019 Closed
ChargeID: 1577691C ACN: 007025J181577691001				Status:	
Filed As: Theft by Unauthd Taking \$0-\$1000	MISDB		12/28/2018		
Arrest: 12/13/2018					

**PARTY INFORMATION**

**Defendant** Celicourt, Jacky  
  
 Black Female Height 5' 9" Weight 170  
 Age: 37

**Arresting Agency** Nashua Police Department  
 PO Box 785  
 Nashua, NH 03061

DATE	EVENTS & ORDERS OF THE COURT	INDEX
12/19/2018	Bail Order	Index #1
01/02/2019	Complaint As Accepted For Filing	
01/16/2019	Arraignment on Complaint interpreter requested through language bank 1/3/19 HB	
01/16/2019	Plea (Judicial Officer: Introcaso, Julie A) 1. Theft by Unauthd Taking \$0-\$1000 Guilty	
01/16/2019	Disposition (Judicial Officer: Introcaso, Julie A) 1. Theft by Unauthd Taking \$0-\$1000 Finding of Guilty	
01/16/2019	Sentence (Judicial Officer: Introcaso, Julie A) 1. Theft by Unauthd Taking \$0-\$1000 Sentenced Fees Fines: \$310.00 Condition - Adult: 1. Good Behavior for One Year, no contact with ocean state job lot, 01/16/2019, Active 01/16/2019	
01/16/2019	Acknowledgement and Waiver of Rights (Judicial Officer: Introcaso, Julie A ) Party: Defendant Celicourt, Jacky	Index #2

A TRUE COPY ATTEST  
  
 Clerk

①



9TH CIRCUIT - DISTRICT DIVISION - NASHUA

**CASE SUMMARY**

**CASE NO. 459-2019-CR-00025**

A TRUE COPY ATTEST

Clerk

*Deborah A. [Signature]*

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# Exhibit C



Nashua Police Department  
Arrest Report

Page: 1  
01/29/2019

Arrest #: 18-89322-AR  
Call #: 18-89322

Date/Time Reported: 12/13/2018 @ 1809  
Arrest Date/Time: 12/13/2018 @ 1830  
Booking Date/Time: 12/13/2018 @ 1840



TN #:  
Court: 9TH CIRCUIT NASHUA  
Court Date: 01/16/2019 @ 0815  
Reporting Officer: PATROLMAN LAUREN COLLINS  
Booking Officer: DETENTION SPECIALIST II JOHN YAGER  
Approving Officer: LIEUTENANT TODD MARTYNY

Signature: \_\_\_\_\_

Bail For Court: 9TH CIRCUIT NASHUA Set: 12/13/2018 @ 2321  
Personal Recognizance Set 0.00  
Personal Recognizance Set  
Bail Set By: KR KATHY ROY  
Bail Payment: 12/13/2018 @ 2321 by Personal Recognizance \$0.00  
Bail Paid By: Defendant  
Released: 12/13/2018 @ 2321

Signature: \_\_\_\_\_

#	DEFENDANT(S)	SEX	RACE	AGE	SSN	PHONE
1	CELICOURT, JACKY [REDACTED]	M	B	37		

Military Active Duty: N  
HEIGHT: 509 WEIGHT: 170 HAIR: BLACK EYES: BLACK  
BODY: SLIM COMPLEXION: NOT AVAIL.  
DOB: [REDACTED] PLACE OF BIRTH: HAITI  
LICENSE NUMBER: NOT AVAIL. ETHNICITY: NOT HISPANIC

[APPEARANCE]

GLASSES WORN: NO

[FAMILY/EMPLOYMENT INFORMATION]

EMPLOYER/SCHOOL: UNEMPLOYED

3

Nashua Police Department  
Arrest Report

Page: 2  
01/29/2019

Arrest #: 18-89322-AR  
Call #: 18-89322

#	DEFENDANT(S)	SEX	RACE	AGE	SSN	PHONE
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[RIGHTS/BOOKING CHECKS]

PHONE USED: N  
ARRESTEE SECURED: Y 12/13/2018 1850  
ARRESTEE CELL #: AM10  
  
FINGERPRINTED: Y  
PHOTOGRAPHED: Y  
VIDEO: ADULT  
SUICIDE CHECK: Performed  
PERSONS: State&Federal  
NCIC VEHICLE CHECK: Not Performed  
INJURY OR ILLNESS: N

#	OFFENSE(S)	ATTEMPTED	TYPE	CLASS
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LOCATION TYPE: Department/Discount Store      Zone: Sector 4  
OCEAN STATE JOB LOT #411  
300 MAIN ST  
NASHUA NH 03060

1	Theft by Unauthd Taking \$0-\$1000 637      3 OCCURRED: 12/13/2018      1808	N	Misdemeanor	A
---	--	---	-------------	---

#	VICTIM(S)	SEX	RACE	AGE	SSN	PHONE
---	-----------	-----	------	-----	-----	-------

1	OCEAN STATE JOB LOT					603-557-8863
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VICTIM CONNECTED TO OFFENSE NUMBER(S): 1

#	OTHER PROPERTIES	PROPERTY #	STATUS
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1	EARBUD HEADPHONES WITH CASE QUANTITY: 1      VALUE: \$5.99 SERIAL #: NOT AVAIL DATE: 12/16/2018 RECOVERED: 1      VALUE: \$5.99      DATE: 12/13/2018 OWNER: OCEAN STATE JOB LOT		Recovered (Previously Stolen)
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Nashua Police Department

Page: 1

2018/12/13 1809 HRS: INITIAL

Ref: 18-89322-AR

On December 13, 2018, at approximately 1809 hours, I responded to Ocean State Job Lot located at 300 Main Street for a report of a shoplifter.

Upon my arrival, I made contact with the Loss Prevention employee VICKI GRAY who was speaking with the male in question JACKY CELICOURT (DOB: [REDACTED]). Gray informed me she watched Celicourt walk into the book isle, where there are no surveillance cameras, with three items in his hands. Once in this isle, Gray watched Celicourt open one of the items, put something from the package in each of his front pants pocket before placing the rest of the package on the shelf. Gray furthered Celicourt then responded to one of the stores points of purchase and purchased the two remaining items in his hand which happened to be a pair of winter gloves and a pair of socks. During his purchase, Gray stated Celicourt never removed the either item he had placed into his pants front pockets. According to Gray, she confronted Celicourt at the stores exit and questioned him about what Celicourt had placed in his pants front pockets. It was at this time Celicourt removed headphones from one of his pants pockets and a headphone case from the other front pants pocket and handed the items to Gray. Gray then responded to the book isle where she located an open Earbud headphones packaging which was missing the headphones and headphone case. Gray asked Celicourt to wait with her until police responded in order for them to speak with him which Celicourt complied with.

I then began speaking with Celicourt who handed me an identification card from Haiti identifying himself as Jacky Celicourt. I asked Celicourt if he had attempted to steal the headphones and the case which Celicourt stated he had but when Gray confronted him he handed them over to her and apologized. Celicourt stated he opened the Earbud headphone packaging and put the headphones in one of his pants pockets and the headphone case in the other. Celicourt then apologized. It should be noted this Earbud headphone package cost \$5.99. I noted Celicourt was holding an Ocean State Job Lot plastic shopping bag which contained winter gloves and socks Celicourt purchased from this store. There was a receipt within Celicourt's shopping bag confirming Celicourt purchased these two items before making his way to the stores exit. Gray informed me Ocean State Job Lot would like to prosecute for this theft. It should be noted Gray took custody of the stolen merchandise to secure it as evidence. I informed Celicourt he was under arrest for Theft by Unauthorized Taking and placed him into handcuffs which were checked for proper fit and double locked. I then secured Celicourt into the rear of my police cruiser and transported him to the Nashua Police Department where he was booked per department SOP by Detention Specialist Yager. Up to this point, Celicourt was speaking to me in broken English without an issue however during the booking processes Celicourt asked for a translator. Yager contacted a 911 translator to translate for Celicourt during the booking process. Once the booking process was complete I signed and swore to the truthfulness and accuracy of the criminal complaint in front of Justice of the Peace Sara Anderson subsequently ending my involvement in this incident.

Nothing Further  
Officer Collins #87

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# Exhibit D

30 Spring St  
Nashua NHTHE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH<http://www.courts.state.nh.us>

Court Name: 9th Circuit - Nashua District Court

Case Name: Jacky Celicoourt

Case Number:  
(if known)

## CIRCUIT COURT BAIL ORDER

Police Dept. Nashua

Agency Case Number: 18-89322

Date of Offense	Offense	Misd. A	Misd. B
12/13/18	Theft By Unauth Taking 637:3	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>

It is hereby ordered, pending ☒ arraignment ☒ trial ☐ other hearingon Wed Jan 16, 2019 at 8:15 ☒ AM ☐ PM, that the defendant:☒ Be released on personal recognizance.☐ Be detained for not more than 72 hours to allow for filing of a probation violation.

## Defendant's release is subject to the following conditions:

Defendant shall not commit a federal, state or local crime while on release, must appear at all court proceedings as ordered and must advise the court in writing of all changes of address within 24 hours.

1. ☐ Shall have no contact, direct or indirect, or through a third party with \_\_\_\_\_ within \_\_\_\_\_ feet of where that person(s) may be.2. ☒ Shall live at: \_\_\_\_\_3. ☐ Shall not travel outside of New Hampshire.4. ☐ Shall not possess a firearm, destructive device, dangerous weapon, or ammunition.5. ☒ Shall refrain from excessive use of alcohol, and use of a narcotic drug or controlled substance as defined in RSA 318-B.6. ☐ Shall follow all terms and conditions of probation and/or parole.7. ☐ The Criminal Bail Protective Order issued on \_\_\_\_\_ remains in full force and effect.8. ☒ Other: Def must stay off all property of Ocean State  
Job Lot, 300 Main St, Nashua NH

no criminal history

## The Court determines that the above conditions will:

A. ☐ not reasonably assure the appearance of defendant as required by a preponderance of the evidence for the following reasons:

Case Name: Jacky Celicourt

Case Number: \_\_\_\_\_

**ORDERS AND CONDITIONS OF BAIL**

- A1. ☐ Having found that the following order imposing a financial condition will not be the sole cause for the defendant's continued detention, the court orders that the defendant shall be released on \$ \_\_\_\_\_ cash or corporate surety bail.

**AND/OR The Court determines that:**

- B. ☐ release will endanger the defendant or the public by *clear and convincing evidence* for the following reasons:
- \_\_\_\_\_
- \_\_\_\_\_

**Therefore the Court orders that the defendant:**

- B1. ☐ be placed in preventive detention. (See RSA 597:2, IV(a)).  
☐ and/or such other restrictions as set forth below:
- \_\_\_\_\_
- \_\_\_\_\_

- B2. ☐ Having found that the following order imposing a financial condition will not be the sole cause for the defendant's continued detention, the court orders that the defendant shall be released on \$ \_\_\_\_\_ cash or corporate surety bail.

**Defendant Information:**Name: Jacky Celicourt

DOB: \_\_\_\_\_

Physical address: \_\_\_\_\_

Mailing address (if different): \_\_\_\_\_

Home phone #: \_\_\_\_\_

Cell phone #: \_\_\_\_\_

mail: \_\_\_\_\_

Defendant Signature: [Signature]**So Ordered:**Date: 12/13/18Bail commissioner fee \$ 40Signature of Bail Commissioner: Kathy A RoyName of Bail Commissioner: KATHY A-ROY

- ☐ Approved
- ☐ Approved as modified
- ☐ See Supplemental Bail Order

Date: \_\_\_\_\_

Signature of Judge: \_\_\_\_\_

Name of Judge: \_\_\_\_\_

- ☐ County Attorney/AGs Office
- ☐ Defense Counsel
- ☐ House of Corrections

- ☐ Sheriff's Department
- ☐ NH Department of Corrections
- ☐ Other \_\_\_\_\_
- ☐ Defendant
- ☐ Surety



# Exhibit E

DEPARTMENT OF HOMELAND SECURITY  
NOTICE OF CUSTODY DETERMINATION

Alien's Name: CELICOURT, JACKYA-File Number: [REDACTED]Date: 01/16/2019Event ID: MAN1901000074Subject ID: 363605860

Pursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations, I have determined that, pending a final administrative determination in your case, you will be:

- ☒ Detained by the Department of Homeland Security.
- ☐ Released (check all that apply):
- ☐ Under bond in the amount of \$ \_\_\_\_\_
- ☐ On your own recognizance.
- ☐ Under other conditions. [Additional document(s) will be provided.]

STEVENS, TIMOTHY

Name and Signature of Authorized Officer

01/16/2019 03:27 PM

Date and Time of Custody Determination

SDDO

Title

ICE ERO MANCHESTER Sub Office 275 Chestnut Street, Room 210  
MANCHESTER, NH US 03077

Office Location/Address

You may request a review of this custody determination by an immigration judge.

- ☒ I acknowledge receipt of this notification, and
- ☒ I do request an immigration judge review of this custody determination.
- ☐ I do not request an immigration judge review of this custody determination.

X

Signature of Alien

JAN 15 2019

Date

The contents of this notice were read to CELICOURT, JACKY in the SPANISH language.

(Name of Alien)

(Name of Language)

ANOLI, JOSEPH

Name and Signature of Officer

Name or Number of Interpreter (if applicable)

DEPORTATION OFFICER

Title

# Exhibit F

U.S. Department of Homeland Security

## Notice to Appear

## In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED]

FINS: 1191228718

File No: [REDACTED]

DOB: [REDACTED]

Event No: MAN1901000074

In the Matter of:

Respondent: JACKY CELICOURT

(Number, street, city and ZIP code)

(Area code and phone number)

- ☐ 1. You are an arriving alien.
- ☐ 2. You are an alien present in the United States who has not been admitted or paroled.
- ☒ 3. You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of HAITI and a citizen of HAITI;
3. You were admitted to the United States at MIAMI, FLORIDA on or about MARCH 12, 2018 as a nonimmigrant B-2 VISITOR FOR PLEASURE with authorization to remain in the United States for a temporary period not to exceed SEPTEMBER 11, 2018;
4. You remained in the United States beyond SEPTEMBER 11, 2018 without authorization from the Immigration and Naturalization Service or its successor the Department of Homeland Security.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

Section 237(a)(1)(B) of the Immigration and Nationality Act (Act), as amended, in that after admission as a nonimmigrant under Section 101(a)(15) of the Act, you have remained in the United States for a time longer than permitted, in violation of this Act or any other law of the United States.

- ☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- ☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30(f)(2) ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

JFK Federal Building 15 New Sudbury St, Room 320 Boston, MA 02203. EOIR Boston, MA

(Complete Address of Immigration Court, including Room Number, if any)

on To be set. at To be set. to show why you should not be removed from the United States based on the

(Date) (Time)

charge(s) set forth above.

TIMOTHY STEVENS

SDDO

(Signature and Title of Issuing Officer)

Date: January 24, 2019

MANCHESTER, NH

This Notice to Appear Supersedes the Notice to Appear issued on January 16, 2019 (City and State)

See reverse for important information

**Notice to Respondent**

**Warning:** Any statement you make may be used against you in removal proceedings.

**Alien Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

**Failure to appear:** You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

**Mandatory Duty to Surrender for Removal:** If you become subject to a final order of removal, you must surrender for removal to one of the offices listed in 8 CFR 241.16(a). Specific addresses on locations for surrender can be obtained from your local DHS office or over the internet at <http://www.ice.gov/about/dro/contact.htm>. You must surrender within 30 days from the date the order becomes administratively final, unless you obtain an order from a Federal court, immigration court, or the Board of Immigration Appeals staying execution of the removal order. Immigration regulations at 8 CFR 241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Act.

**Request for Prompt Hearing**

To expedite a determination in my case, I request an immediate hearing. I waive my right to a 10-day period prior to appearing before an immigration judge.

Before:

\_\_\_\_\_  
(Signature of Respondent)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature and Title of Immigration Officer)

**Certificate of Service**

This Notice To Appear was served on the respondent by me on January 24, 2019, in the following manner and in compliance with section 239(a)(1)(F) of the Act.

- ☒ in person      ☐ by certified mail, returned receipt requested      ☐ by regular mail  
☐ Attached is a credible fear worksheet.  
☒ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the Spanish language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

x refused to sign  
(Signature of Respondent if Personal)

IVAN 4737 GONZALEZ      Deportation Officer  
(Signature and Title of officer)

# Exhibit G

**In the Matter of:**

*In RE: Jackie Celicort*

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*Hearing*

*February 07, 2019*

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*68 Commercial Wharf • Boston, MA 02110*

*888.825.3376 - 617.399.0130*

*Global Coverage*

*court-reporting.com*



In RE: Jackie Celicort

Hearing  
February 07, 2019

COMMONWEALTH OF MASSACHUSETTS  
UNITED STATES IMMIGRATION

Case no. [REDACTED]

\*\*\*\*\*

IN RE: \*

JACKIE CELICOURT, \*

\*\*\*\*\*

HEARING HELD ON FEBRUARY 7, 2019

BEFORE THE HONORABLE JUDGE MARIO J. STURLA

APPEARANCES:

For the DHS: CHRISTY D'ORIO, ESQ.

For the Respondent: MELANIE M. CHAPUT, ESQ.

Transcription Service: Mary Indomenico, ACT, CET  
Perfect In Print  
212 Vineland Avenue  
East Longmeadow, MA 01028  
(413) 746-1778

Proceedings recorded by electronic sound recording;  
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In RE: Jackie Celicort

Hearing  
February 07, 2019

2

1 THE COURT: This is United States Immigration,  
2 Judge Mario J. Sturla presiding in custody redetermination  
3 proceedings in the Boston Massachusetts Immigration Court  
4 in the matter of Jackie Celicort, [REDACTED] the date is  
5 February 7, 2019.

6 The respondent is appearing via tele video from the  
7 Strafford County House of Corrections in Dover, New  
8 Hampshire, where he is detained by the DHS. Present on  
9 behalf of DHS, is Assistant Chief Counsel Christy DiOrio.  
10 Present on behalf of the respondent is Attorney Melanie M.  
11 Chaput.

12 Good afternoon, Ms. Chaput.

13 MS. CHAPUT: Good afternoon, Your Honor.

14 THE COURT: The courthouse is also joined by a  
15 telephonic Haitian Creole interpreter.

16 Madam Interpreter, good afternoon. Please state  
17 your name.

18 MS. DELVER: (Indiscernible) Delver (phonetic).

19 THE COURT: Thank you, ma'am. Have you been sworn  
20 in today?

21 MS. DELVER: Yes, Your Honor.

22 THE COURT: All right. To the respondent through  
23 the Haitian Creole interpreter who's previously been sworn  
24 in.

In RE: Jackie Celicort

Hearing  
February 07, 2019

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1 Good afternoon, sir, please state your name?

2 THROUGH INTERPRETER

3 MR. CELICOURT: Good afternoon, my name is Jackie  
4 Celicourt.

5 THE COURT: Thank you, sir. And this is your bond  
6 hearing. I am here to speak with your attorney and the  
7 government's attorney to determine whether or not a bond  
8 should be set in your case, understood?

9 MR. CELICOURT: Yes, yes sir.

10 THE COURT: Bond Exhibit 1 is a DHS Form I-286,  
11 notice of custody determination, reflected that on January  
12 16, 2019, the DHS determined to hold the respondent  
13 without bond, pending removal proceedings. Respondent did  
14 request a review of that on January 15th of 2019. Bond  
15 Exhibit 2, is a warrant for the respondent's arrest, I-200  
16 issued on January 16, 2019. Bond Exhibit 3 is a thirteen-  
17 page submission received today, motion for bond  
18 determination, Tab A as in apple through B as in boy,  
19 which is an eighteen-page brief, along with a -- it looks  
20 like a case summary for theft by unauthorized taking in  
21 the amount of zero dollars to \$1,000, closed on January  
22 16, 2019. He was found guilty, and there's a police  
23 report of this as well. There's also a letter from a  
24 [REDACTED] (phonetic) and some other individuals.

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1 All right. Any additional documents from either  
2 party?

3 MS. CHAPUT: No, Your Honor.

4 THE COURT: All right, thank you. Bond Exhibit  
5 number 4 is a Form I-213, record of deportable  
6 inadmissible alien. Bond Exhibit number 5 is a December  
7 13, 2018 police report, along with a financial affidavit  
8 and application for court-appointed counsel.

9 Any objections to Bond Exhibits 1 through 5?

10 MS. CHAPUT: No, Your Honor.

11 THE COURT: All right, Ms. Chaput, why don't you go  
12 ahead and proffer to why you believe your client is not a  
13 danger to persons or property or a flight risk.

14 MS. CHAPUT: Thank you, Your Honor. My client is a  
15 37-year-old male who entered the United States from Haiti  
16 with a tourist visa on March 12, 2018. He's remained in  
17 the United States since that date.

18 He originally was in -- staying in Miami, Florida,  
19 and he moved to Nashua, New Hampshire where he's lived for  
20 the past ten months.

21 He's been working in construction and working to  
22 support himself since he entered.

23 He had previously traveled to the United States on  
24 two occasions with a tourist visa in 2006 and 2007. And

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1 on those two occasions, he did not overstay his visa.

2 However, Your Honor, on his last entry, he did not  
3 return to Haiti because he fears persecution. The  
4 respondent experienced past persecution in Haiti. He was  
5 attacked with a car in an attempted kidnaping. He was a

6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]

12 He'd work to [REDACTED]

13 [REDACTED] and the respondent believes he was targeted  
14 because of his political activity and organization and the  
15 attempted kidnaping.

16 The respondent [REDACTED]  
17 [REDACTED] He fears returning there, because he's afraid  
18 he'll be persecuted. He hopes that [REDACTED]

19 [REDACTED]  
20 [REDACTED]  
21 The respondent was served with an NTA on January  
22 16, 2019. He's been charged with overstaying his tourist  
23 visa; he's been detained for about two weeks. He was  
24 apprehended by ICE at the District Court in Nashua, New

In RE: Jackie Celicort

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1 Hampshire, where he had appeared to answer a shoplifting  
2 charge, Your Honor.

3 I've included the documents at Tab A, which  
4 includes the disposition of the case, as well as the  
5 police report. This is his only contact that he's had  
6 with law enforcement since he's been in the United States,  
7 including on his previous two entries.

8 And Your Honor, just to give you an idea of what  
9 the incident of shoplifting is, I understand that, you  
10 know, it is -- it would most likely be considered a crime  
11 of moral turpitude, something that my client takes  
12 seriously. But what I think I described to you the facts  
13 of the case, you'll understand it's not as serious as it  
14 may appear.

15 My client was shopping at an Ocean State Job Lots,  
16 which is a discount store in Nashua, New Hampshire. He  
17 was planning to purchase a pair of inexpensive headphones,  
18 the cost of which was \$5.99. But in the meantime, he was -  
19 - received a phone call on his cell phone, and in order to  
20 be polite to the other shoppers, he thought he would use  
21 the headphones and pay for the packet -- you know, pay for  
22 it as he left the store. The conversation he had was an  
23 intense conversation, lasted almost an hour as he was  
24 shopping around the store. In the meantime, he also

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1 picked up two other items. He went to the front of the  
2 store to pay for his items, and he had put the headphones  
3 and his phone together in the pocket, and forgot to pay  
4 for the headphones.

5 At the -- after the point of purchase, he was  
6 confronted by a security guard in the store who accused  
7 him of stealing the headphones. He offered to pay for the  
8 headphones at that time. They refused to accept his  
9 money, instead called the Nashua Police Department.

10 When the Nashua Police came, the security guard  
11 indicated in the police report that he had, you know,  
12 basically purposely gone to an aisle, had taken the  
13 package and put it out purposely, and then put the  
14 headphones in his -- in his pants in order to steal them.

15 The police report also says that, "I asked  
16 Celicourt if he had attempted to steal the headphones and  
17 the case, which Celicourt stated he had. But when Grey  
18 (phonetic) confronted him, he handed over to her and  
19 apologized."

20 My client disputes that he ever said that to the  
21 police officer. And I understand, Your Honor, that, you  
22 know, the officer isn't here to you know, testify. But I  
23 would say that, you know, my client essentially made a  
24 mistake.

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1           However, despite making this mistake, he attended  
2 his court hearing in Nashua, New Hampshire. He did plead  
3 guilty and paid a find of \$310. And he accepts  
4 responsibility for the fact that what he did was not --  
5 was wrong.

6           He appeared in court, and like I said, he's already  
7 paid the fine when he was apprehended by ICE without  
8 incident.

9           My client has worked in the Nashua, New Hampshire -  
10 - or has been living in the Nashua, New Hampshire area for  
11 eight months. And despite the short time in the U.S., he  
12 has many community ties --

13           THE COURT: Did he have authorization to work?

14           MS. CHAPUT: He did not.

15           THE COURT: Did he apply for asylum?

16           MS. CHAPUT: He has not yet applied. His deadline  
17 -- his one-year filing deadline will be March 12, 2019.

18           Today one -- there's eight letters, Your Honor,  
19 from people in the Nashua community supporting his case.

20           In addition, [REDACTED] (phonetic), who's a U.S.  
21 citizen, is here in the courtroom today who's a resident  
22 of Canton, Massachusetts, she's here in support of his  
23 case. She had met him in 2014 in the Dominican Republic  
24 on a mission trip, where he helped her and they're good

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1 friends.

2 So, despite a short time in the U.S., Your Honor,  
3 he does have strong community ties to the Nashua, New  
4 Hampshire area.

5 THE COURT: Was he living in the Dominican  
6 Republic?

7 MS. CHAPUT: I believe that he has traveled into  
8 the Dominican Republic on regular occasions --

9 THE COURT: Okay --

10 MS. CHAPUT: -- but I'm not --

11 THE COURT: Does he -- does he have any type of  
12 papers or permission to live in the Dominican Republic?

13 MS. CHAPUT: He does not, Your Honor.

14 THE COURT: So, is he working in the Dominican  
15 Republic as well?

16 MS. CHAPUT: I can ask him. I don't want to make a  
17 proffer on something I haven't discussed earlier with him.

18 THE COURT: All right. If you don't know, that's  
19 fine.

20 MS. CHAPUT: All right, Your Honor.

21 So, Your Honor, I would argue that my client is not  
22 a flight risk. That he's not a danger to the community.  
23 That, you know, he's a personal good moral character  
24 besides this contact with immigration -- or, I'm sorry,



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1 with the police. And we would ask, Your Honor, that a  
2 minimum bond be set in this matter.

3 THE COURT: Thank you. DHS?

4 MS. DIORIO: Your Honor, in regard to  
5 (indiscernible) this issue with the police. I  
6 specifically note that it's not (indiscernible) specific  
7 offense, because (indiscernible). Or it does not  
8 undermine the fact that the respondent does actually have  
9 (indiscernible) the respondent alleges and this issue with  
10 the police report state that he didn't give them to the  
11 police officer, but he intended to steal the headphones in  
12 question, the fact remains that there is a conviction for  
13 this crime.

14 Additionally, the police report does  
15 (indiscernible) specifically that parts of the package had  
16 been placed back on the shelf. It doesn't mention  
17 anything about the respondent wandering around for an hour  
18 using the headphones as (indiscernible) to the Court.

19 Because of this, Your Honor, the fact that it was  
20 (indiscernible), we'd request that the bond  
21 (indiscernible).

22 THE COURT: Ms. Chaput, do you have any indication  
23 of a fixed address here?

24 MS. CHAPUT: Yes, Your Honor. I have the address

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1 that he's been living at here.

2 THE COURT: Do you have a lease or any utility  
3 bills or anything like that?

4 MS. CHAPUT: I don't. I do have, you know, the  
5 witnesses that are here today could certainly testify to  
6 his fixed address in Nashua, New Hampshire. They've known  
7 him for the last eight months and they visit him  
8 regularly. His address is [REDACTED] in  
9 Nashua, but I don't have a lease.

10 THE COURT: All right. Anything further from  
11 either party?

12 MS. DIORIO: No, Your Honor.

13 MS. CHAPUT: No, Your Honor.

14 THE COURT: Okay. So, the Court is confronted with  
15 an individual who recently overstayed his visa less than a  
16 year ago. So, that's one flight risk factor against him.  
17 He also worked without employment authorization. So, he's  
18 not following the laws here. Additionally, while the  
19 respondent disputes that he was actually stealing,  
20 ultimately I am duty bound to give full faith and credit  
21 to the respondent's unauthorized taking conviction out of  
22 New Hampshire, which appears to be a crime involving moral  
23 turpitude.

24 So, based on those factors, I find he's failed to

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1 prove he's not a danger to property or a flight risk.

2 Ms. Chaput, did you wish to reserve appeal?

3 MS. CHAPUT: Yes, Your Honor.

4 THE COURT: All right. That appeal would be due no  
5 later than March 11, 2019.

6 To the respondent through the Haitian Creole  
7 interpreter: Sir, I have denied your bond request.

8 Your attorney, however, has reserved your absolute  
9 right to appeal.

10 Any appeal would be due no later than March 11,  
11 2019.

12 Understand?

13 All right. With that, a bond order will issue. We  
14 stand adjourned in bond proceedings.

15

16 (Court recessed.)

17

18

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C E R T I F I C A T I O N

I, MARY INDOMENICO, AN APPROVED COURT  
TRANSCRIBER, DO HEREBY CERTIFY THAT THE FOREGOING IS A  
TRUE AND ACCURATE TRANSCRIPT FROM THE AUDIO RECORDING  
PROVIDED TO ME BY THE OFFICE OF MINTZ LEVIN, IN THE  
PROCEEDINGS IN THE ABOVE ENTITLED MATTER.

I, MARY INDOMENICO, FURTHER CERTIFY THAT THE  
FOREGOING IS IN COMPLIANCE WITH THE ADMINISTRATIVE OFFICE  
OF THE TRIAL COURT DIRECTIVE ON TRANSCRIPT FORMAT.

I, MARY INDOMENICO, FURTHER CERTIFY THAT I  
NEITHER AM COUNSEL FOR, RELATED TO, NOR EMPLOYED BY ANY OF  
THE PARTIES TO THE ACTION IN WHICH THIS HEARING WAS TAKEN,  
AND FURTHER THAT I AM NOT FINANCIALLY NOR OTHERWISE  
INTERESTED IN THE OUTCOME OF THE ACTION.

\_\_\_\_\_  
Mary C. Indomenico

\_\_\_\_\_  
June 12, 2019

\_\_\_\_\_  
212 Vineyard Avenue, East Longmeadow, MA 01028

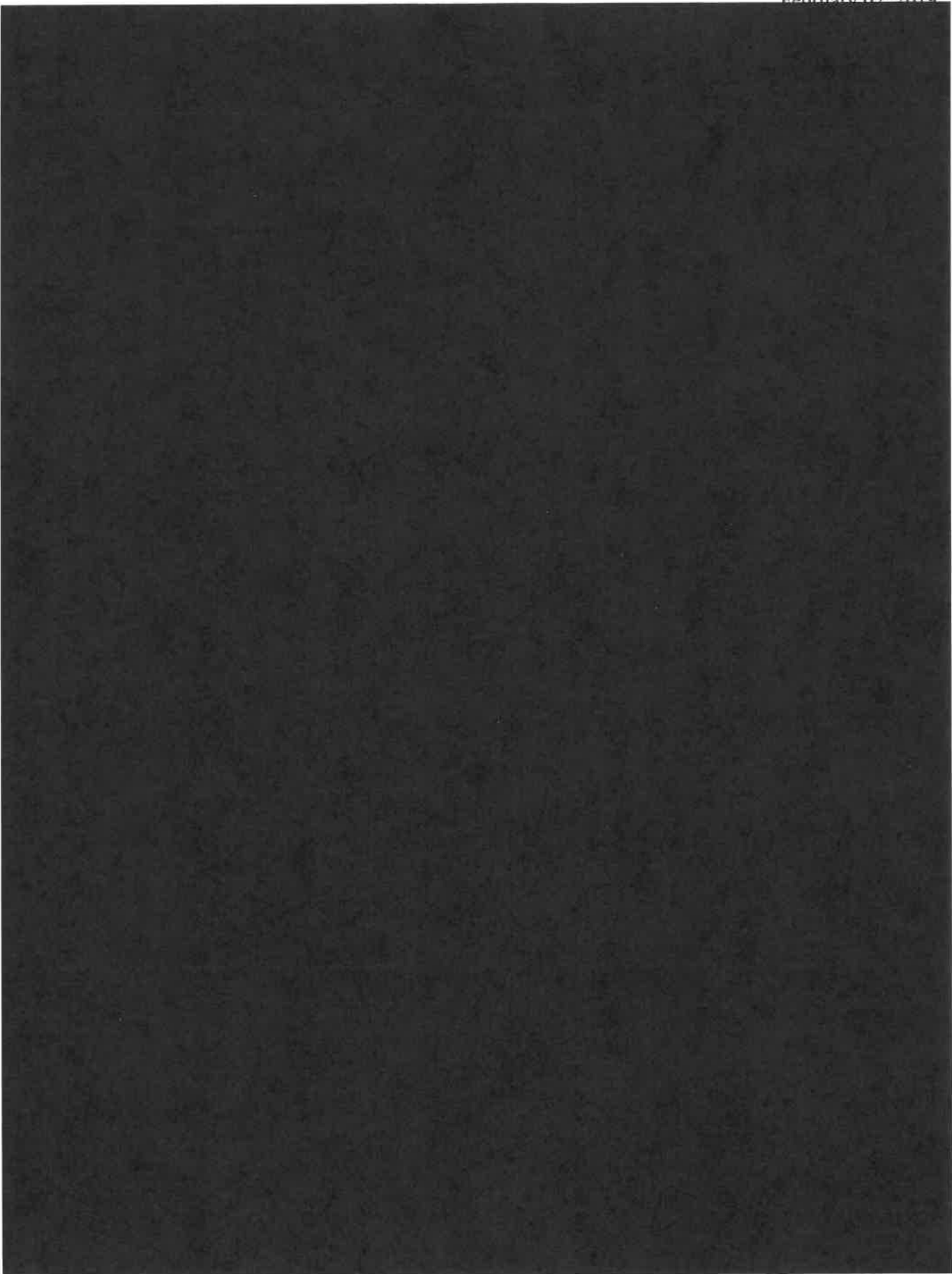
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413-746-1778

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perfectinprint@aol.com

In RE: Jackie Celicort

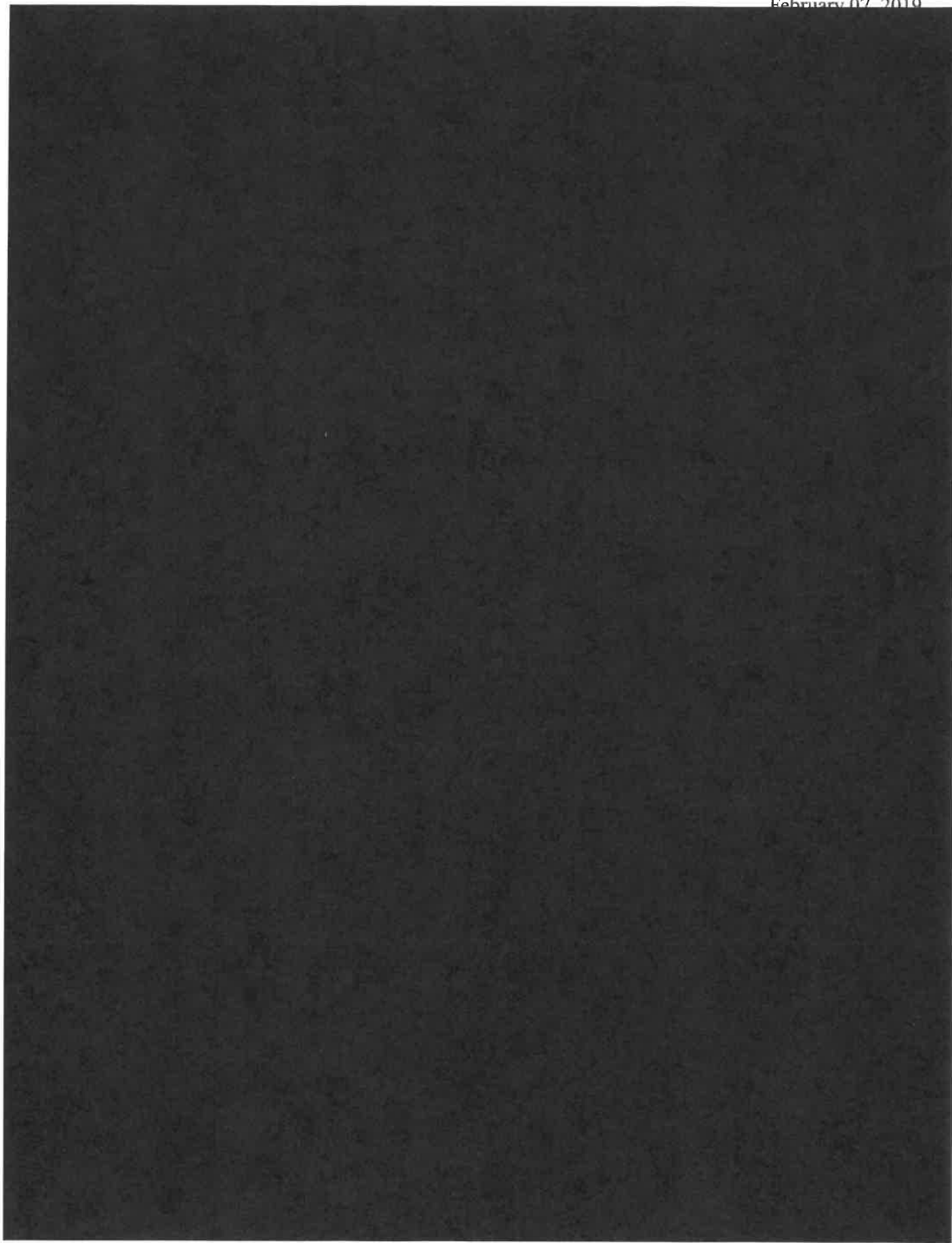
Hearing

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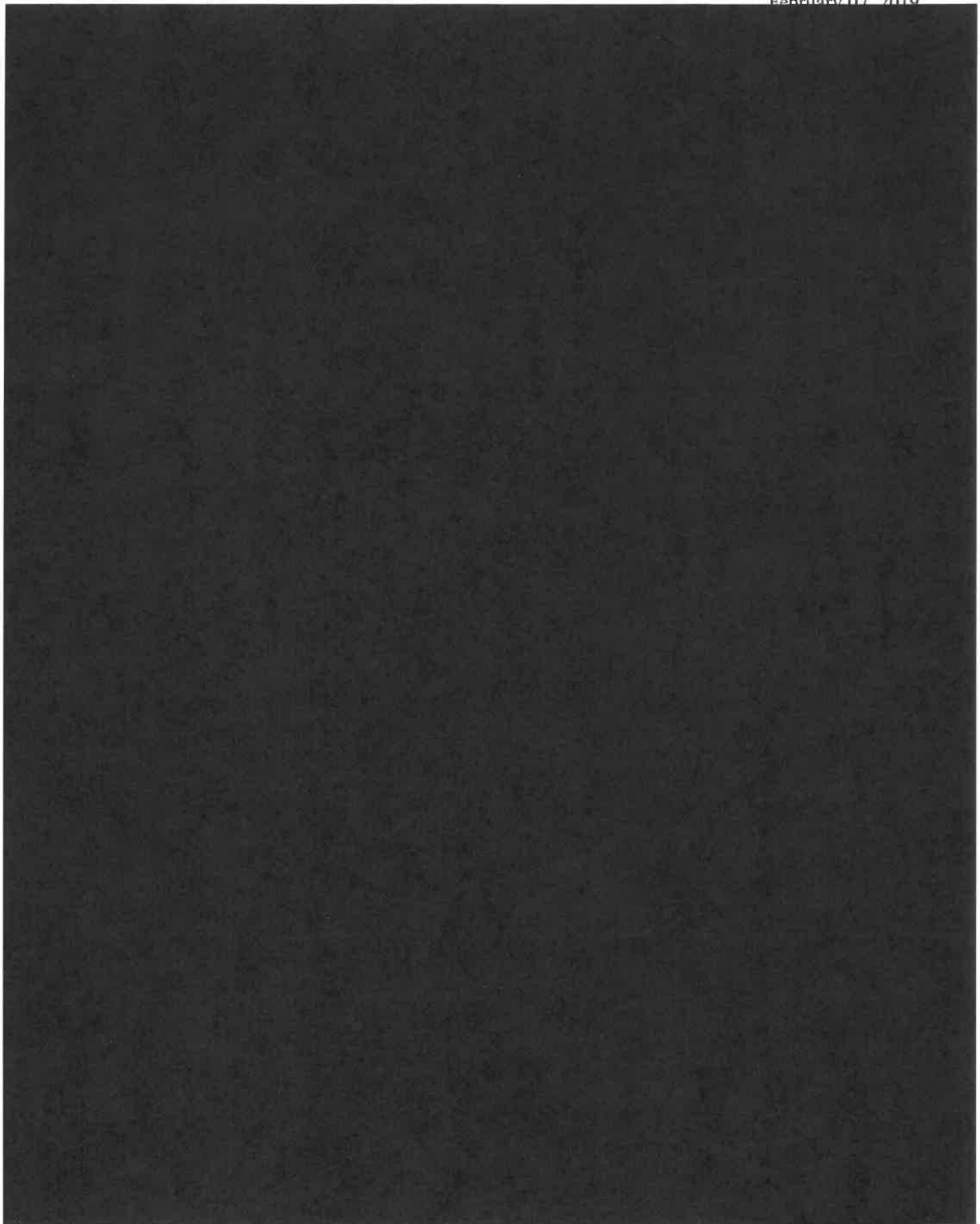
In RE: Jackie Celicort

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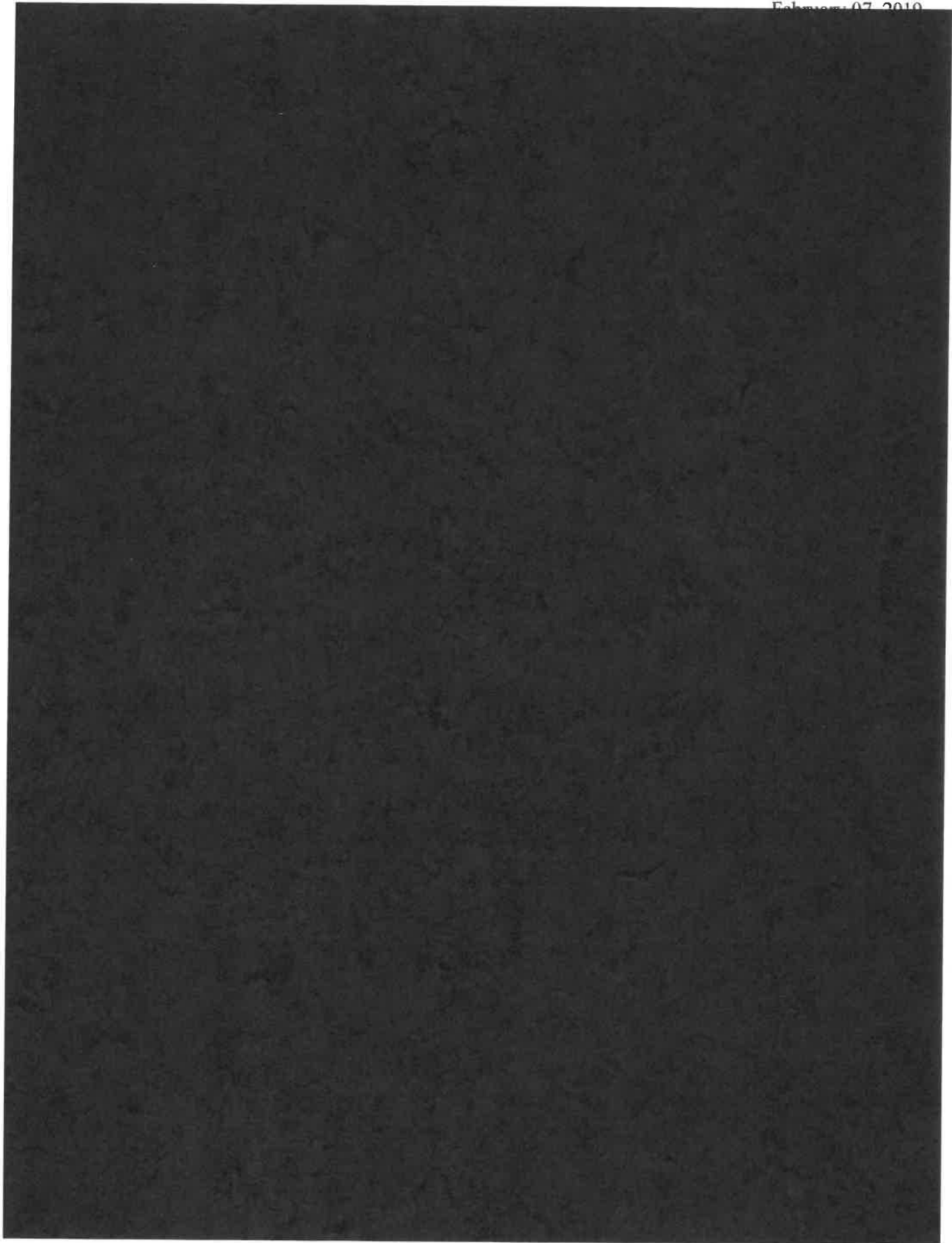
In RE: Jackie Celicort

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In RE: Jackie Celicort

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# Exhibit H

To whom it may concern:

This letter comes from [REDACTED] and Family, we vache for Jacky Celicourt. He is a very helpful person and reasonable. Whenever i've asked him for help he has been there. Jacky is up for any task and handles it with responsibility. I can give faith and testimony that Jacky Celicourt is a very excellent person to everyone.

Sincerely,

[REDACTED]

6

To whom it may concern:

This letter is to let you know that I, [REDACTED] vouch for Jacky Celicourt. He is a very hard-working gentleman and for the time that I have known him he has never shown any disrespect for anyone. Jacky is very responsible and one of the most helpful human being that I know. Jacky is a very family-oriented man that only wants the best for [REDACTED]

Sincerely,

[REDACTED]

To whom it was concern:

I, [REDACTED] vouch for Jacky Celicourt. I am a good friend of Jacky, actually he has been living in my house for about 6 months. I don't have anything bad to about him; he is a very friendly and responsible person. My wife and I find ourselves as good friends of Jacky.

Sincerely,

[REDACTED]

8

To whom it was concern:

I, [REDACTED] vouch for Jacky Celicourt. All I have to say about Jacky is that he is a very good person and super friendly. He's kind with my children and is very responsible. I see Jacky as a well trusted person who has respect for other.

Sincerely,

[REDACTED]

To whom it may concern:

I, [REDACTED] vouch for Jacky Celicourt. I've known Jacky since i came to the United states. I've always seen and known him as a hard working person. Jacky was always there if you need a hand and even just hanging out with our family. He is very responsible when he has to do a task and gives his all, also overall he's a well known man who many people trust. Since i've known Jacky's he works hard to help [REDACTED]  
[REDACTED]

Sincerely,

[REDACTED]

02/06/19

To whom it may concern

My name is [REDACTED] and I will like to say I have known Jacky Celicourt for 4-6 months and he is a great person with awesome attitude

If you wish to contact me please email-

[REDACTED]

[REDACTED]

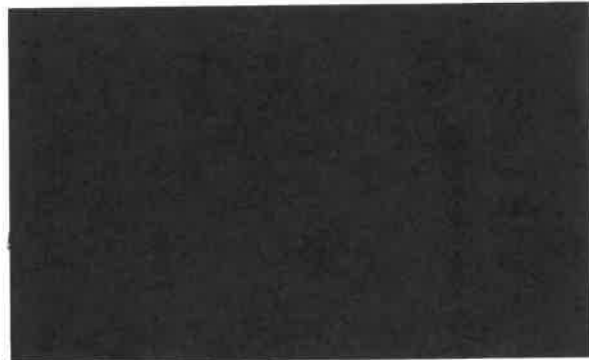


02/06/19

To whom it may concern

Hello, my name is 

and I will like to inform To Whom It May  
Concern I have known Jacky Celicourt for about  
2 years and sometime now, he is a great person  
with great values.



02/06/19

To whom it may concern

My name is [REDACTED] and I will like to say that I have known Jacky Celicourt for around 2 years and I have nothing bad to say about Jacky. He is a great human being, very kind men.

If you wish to contact me please email me-

[REDACTED]

[REDACTED]

# Exhibit I

**Melanie M. Chaput**  
**Chaput Law Office**  
**46 Bridge Street, Unit G**  
**Nashua, NH 03062**  
**EOIR #IO998616**

**DETAINED**

**UNITED STATES DEPARTMENT OF JUSTICE**  
**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**  
**IMMIGRATION COURT**  
**BOSTON, MASSACHUSETTS**

**In the Matter of:**

**Jackie CELICOURT**

**Respondent**

**IN REMOVAL  
PROCEEDINGS**

**Next Hearing: February 7, 2019 at 1:00 pm**  
**Immigration Judge: The Honorable Mario J. Sturla**

**MOTION FOR BOND REDETERMINATION**

1. The Respondent is a 37-year old male who entered the United States from Haiti with a tourist visa on March 12, 2018. He has remained in the United States since that date. He first lived in Miami, Florida for one month. He then moved to Nashua, New Hampshire, where he has lived for the last 10 months. The Respondent has worked in construction and roofing to support himself since he entered.

2. He had previously traveled to the United States on two occasions with his tourist visa in 2006 and 2007. On these occasions he did not overstay his visa. On his last entry, he did not return to Haiti because he fears persecution. The Respondent experienced past persecution in Haiti. He was attacked with a car in an attempted kidnapping. [REDACTED]

3. [REDACTED] He fears returning to Haiti because he will be persecuted again if he returns to Haiti. [REDACTED]

4. The Respondent was served with an NTA on January 16, 2019. He is being charged for overstaying his tourist visa, pursuant to INA §237(a)(1)(B). He has been detained for almost two weeks. The Respondent was apprehended by ICE without incident at the District Court in Nashua, NH when he appeared before them to answer a shoplifting charge.

5. The Respondent has had only one contact with law enforcement since being in the United States. He was convicted of Theft by Unauthorized Taking \$0-1000. He appeared in court and paid his fine of \$310. See attached as Exhibit A, Certified Copy of Court records from the 9<sup>th</sup> Circuit District Division Nashua, NH on January 16, 2019 and police report. He appeared at all his hearings and paid all the fines in his case.

6. This incident stemmed from a mistake by the Respondent when he was at an Ocean State Job Lots, a discount store in Nashua. He wanted to purchase a pair of inexpensive headphones and while he was in the store he received a phone call. He opened the package of headphones and used them to speak on the phone while he shopped in the store. When he went up to the front of the store to pay for his other items, a pair of winter gloves and socks he forgot he had placed the headphones worth \$5.99 in his pocket. When confronted by the store security he offered to pay for the item. Instead, the security officer asked to see his identification. Seeing that he only had his Haitian passport as identification, she stated, "I don't want your money I want you deported back to your country." The police were called and the Respondent was unable to pay for his purchase even though he had more than enough money with him to cover this expense. The police report of this incident states that the Respondent admitted he attempted to take these items, but the Respondent contends that he never made such a statement as he always intended to pay for these items. The prosecutor at his hearing convinced him that he should simply plead guilty to the offense so that he did not have to return to court. The

Respondent understands that he made a mistake in not paying for the items and accepted responsibility for his mistake and paid the fine requested by the court.

7. The Respondent has many community ties to the Nashua, NH area, including many friends who have financed his legal case and written letters on his behalf. See attached as Exhibit B, eight (8) letters from friends. He lived and worked in Nashua, NH for over eight (8) months before he was detained by ICE. The Respondent intends to file for asylum, withholding of removal and relief under the Torture Convention. He is still within the one-year filing deadline which in his case will be March 12, 2019. The Respondent has no criminal convictions that would bar him from relief. The Respondent fears persecution if he were to return to Haiti and he intends to apply for asylum and withholding of removal.

8. The Respondent fears returning to Haiti and would like the opportunity to be able to better prepare his applications and [REDACTED] if he is released from custody. He will comply with all requirements for appearance in court, submission of forms and biometrics. There is a strong likelihood that he will be granted relief from removal.

9. The Respondent is not a danger to the community. He has never been charged with or convicted of a violent or crime implicating dangerousness. Upon his apprehension he fully cooperated with ICE.

10. The Respondent has a strong work history with no significant gaps in his employment. He has been working in construction in the United States since his arrival in order to support himself and [REDACTED]

11. The Respondent is not subject to mandatory detention pursuant to INA §236(c) as he has not been convicted of any pertinent criminal offenses in the United States or any other country.

12. In Matter of Patel, 15 I&N Dec. 666 (BIA 1976), the Board of Immigration Appeals ("BIA") explained that "[a]n alien generally is and should not be detained or required to post bond except on a finding that he is a threat to the national security, or that he is a poor bail risk." Id. at 666 (citations omitted); accord In re: Guerra, 24 I&N Dec. 37, 40 (BIA 2006); Matter of Andrade, 19 I&N Dec. 488, 489 (BIA 1987).

13. "Immigration Judges may look to a number of factors in determining whether an alien merits release from bond, as well as the amount of bond that is appropriate," including but not limited to:

- (1) whether the alien has a fixed address in the United States;
- (2) the alien's length of residence in the United States;
- (3) the alien's family ties in the United States; and whether they may entitle the alien to reside permanently in the United States in the future;
- (4) the alien's employment history;
- (5) the alien's record of appearance in court;
- (6) the alien's criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses;
- (7) the alien's history of immigration violations;

- (8) any attempts by the alien to flee prosecution or otherwise escape from authorities; and  
(9) the alien's manner of entry to the United States."

In re Guerra, 24 I.&N. Dec. at 40; Matter of Andrade, 19 I.&N. Dec. at 490.

14. The Respondent has a fixed address in the United States in Nashua, NH, where he will return at [REDACTED]. He has a strong work history in the United States. There has been no showing that the Respondent is a threat to national security or that he is a poor bail risk. He is eligible for asylum, withholding of removal and relief under the Torture Convention. He intends to return to his home in Nashua, NH as well as his employment in construction upon his release. The Respondent has an extensive work history and has no significant periods of unemployment.

15. The Respondent has strong community ties as described above. See attached letters at Exhibit B. These letters describe the Respondent as a hard-working [REDACTED]. They describe him as a person of good moral character.

16. As discussed above, the Respondent presents no threat to the safety of the community. The Respondent does not have any criminal record besides the shoplifting charge. He has a history of good behavior.

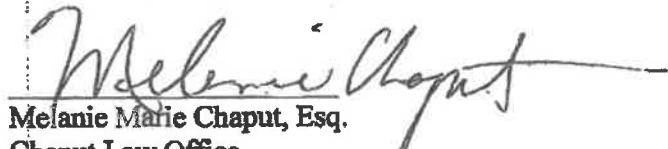
17. Respondent is not a flight risk and will appear before the Immigration Court for any hearings. He has never had any issues attending past hearings in the immigration or any other courts. In addition, he has a strong likelihood of success in seeking relief from the immigration court and thus a strong incentive to appear before this court for all future hearings.

18. For all the above reasons, Respondent respectfully requests that the Court grant him the minimum bond of \$1500.

WHEREFORE, the Respondent's Counsel respectfully requests that the Immigration Court GRANT a minimum bond in this matter.

Respectfully submitted,


2/7/2019  
Date

  
Melanie Marie Chaput, Esq.  
Chaput Law Office  
EOIR #IO998616  
46 Bridge Street, Unit G  
Nashua, NH 03060  
(603) 883-0085

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion for Bond Redetermination was electronically served and hand delivered on this day to the Department of Homeland Security, Office of District Counsel, 15 New Sudbury Street, Room 425, JFK Federal Building, Government Center, Boston, Massachusetts 02203.

2/7/2019  
Date

  
Melanie Marie Chaput, Esq.  
Chaput Law Office  
46 Bridge Street Unit G  
Nashua, NH 03060  
(603) 883-0085



# Exhibit J

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
BOSTON, MA

FILE: [REDACTED]

IN THE MATTER OF:

CELICOURT, JACKY

RESPONDENT

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE  
WITH RESPECT TO CUSTODY

Request having been made for a change in the custody status of respondent pursuant to 8 CFR 236.1(c), and full consideration having been given to the representations of the Department of Homeland Security and the respondent, it is hereby

☒ ORDERED that the request for a change in custody status be denied.

☐ ORDERED that the request be granted and that respondent be:

☐ released from custody on his own recognizance

☐ released from custody under bond of \$ \_\_\_\_\_

☒ OTHER No bond

Copy of this decision has been served on the respondent and the Department of Homeland Security.

APPEAL: waived -- reserved

*by the respondent, due 3/11/2019)*

BOSTON -- BOSTON DETAINED

Date: Feb. 7, 2019

*Mario J. Sturla*  
MARIO J. STURLA  
Immigration Judge

XS

# Exhibit K

UNITED STATES IMMIGRATION COURT  
JFK FEDERAL BLDG., ROOM 320  
BOSTON, MA 02203

IN THE REMOVAL CASE OF  
CELICOURT, JACKY  
RESPONDENT

CASE NO.: [REDACTED]

ORDERS

- ☒ This is a memorandum of the Court's Decision and Orders entered on April 10 2019. This memorandum is solely for the convenience of the parties. The oral or written Findings, Decision and Orders is the official opinion in this case. ( ) Both parties waived issuance of a formal oral decision in the case.
- ☒ The respondent was ordered REMOVED from the United States to Haiti ( ) in absentia.
- [ ] Respondent's application for VOLUNTARY DEPARTURE was DENIED and respondent was ordered removed to \_\_\_\_\_, in the alternative to \_\_\_\_\_.
- [ ] Respondent's application for VOLUNTARY DEPARTURE was GRANTED until \_\_\_\_\_, upon posting a voluntary departure bond in the amount of \$ \_\_\_\_\_ to DHS within five business days from the date of this Order, with an alternate Order of removal to \_\_\_\_\_ or \_\_\_\_\_. Respondent shall present to DHS within ( ) thirty days ( ) sixty days from the date of this Order, all necessary travel documents for voluntary departure.
- ☒ Respondent's application for ASYLUM was ( ) granted ☒ denied ( ) withdrawn with prejudice.  
( ) subject to the ANNUAL CAP under the INA section 207(a)(5).  
( ) Respondent knowingly filed a FRIVOLOUS asylum application.
- ☒ Respondent's application for WITHHOLDING of removal under INA section 241(b)(3) was ( ) granted ☒ denied ( ) withdrawn with prejudice.
- ☒ Respondent's application for WITHHOLDING of removal under the Torture Convention was ( ) granted ☒ denied ( ) withdrawn with prejudice.
- [ ] Respondent's application for DEFERRAL of removal under the Torture Convention was ( ) granted ( ) denied ( ) withdrawn with prejudice.
- [ ] Respondent's application for CANCELLATION of removal under section ( ) 203(b) of NACARA, ( ) 240A(a) ( ) 240A(b)(1) ( ) 240A(b)(2) of the INA, was ( ) granted ( ) denied ( ) withdrawn with prejudice. If granted, it was ordered that the DHS issue all appropriate documents necessary to give effect to this Order. Respondent ( ) is ( ) is not subject to the ANNUAL CAP under INA section 240A(e).
- [ ] Respondent's application for a WAIVER under the INA section \_\_\_\_\_ was ( ) granted ( ) denied ( ) withdrawn or ( ) other \_\_\_\_\_. ( ) The conditions imposed by INA section 216 on the respondent's permanent resident status were removed.
- [ ] Respondent's application for ADJUSTMENT of status under section \_\_\_\_\_ of the ( ) INA ( ) NACARA ( ) \_\_\_\_\_ was ( ) granted ( ) denied ( ) withdrawn with prejudice. If granted, it was ordered that DHS issue all appropriate documents necessary to give effect to this Order.

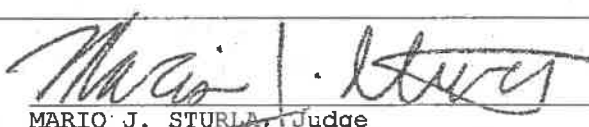
CASE NUMBER: 216-310-133

RESPONDENT: CELICOURT, JACKY

- ☐ Respondent's status was RESCINDED pursuant to the INA section 246.
- ☐ Respondent's motion to WITHDRAW his application for admission was ☐ granted ☐ denied. If the respondent fails to abide by any of the conditions directed by the district director of DHS, then the alternate Order of removal shall become immediately effective without further notice or proceedings: the respondent shall be removed from the United States to \_\_\_\_\_.
- ☐ Respondent was ADMITTED as a \_\_\_\_\_ until \_\_\_\_\_ . As a condition of admission, the respondent was ordered to post a \$ \_\_\_\_\_ bond.
- ☐ Case was ☐ TERMINATED ☐ with ☐ without prejudice ☐ ADMINISTRATIVELY CLOSED.
- ☐ Respondent was orally advised of the LIMITATION on discretionary relief and consequences for failure to depart as ordered.
- ☐ If you fail to voluntarily depart when and as required, you shall be subject to civil money penalty of at least \$1,000, but not more than \$5,000, and be ineligible for a period of 10 years for any further relief under INA sections 240A, 240B, 245, and 248 (INA Section 240B(d)).
- ☐ If you are under a final order of removal, and if you willfully fail or refuse to 1) depart when and as required, 2) make timely application in good faith for any documents necessary for departure, or 3) present yourself for removal at the time and place required, or, if you conspire to or take any action designed to prevent or hamper your departure, you shall be subject to civil money penalty of up to \$500 for each day under such violation, (INA section 274D(a)). If you are removable pursuant to INA 237(a), then you shall further be fined and/or imprisoned for up to 10 years. (INA section 243(a)(1)).
- ☐ Other: \_\_\_\_\_

Date:

April 10, 2019

  
 MARIO J. STURLA, Judge
APPEAL: ☐ waived ☒ reserved by ☒ Respondent ☐ DHS ☐ Both

DUE BY:

May 10, 2019

## CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: ☐ MAIL ☒ PERSONAL SERVICE

TO: ☒ DHS ☐ ALIEN ☐ Alien's ATT/REP ☐ ALIEN c/o Custodial Officer

DATE: 4/10/19 BY: ☐ COURT STAFF ☒ JUDGE MSS

# Exhibit L

U.S. Department of Justice  
Executive Office for Immigration Review  
Board of Immigration Appeals

OMB# 1125-0002

Notice of Appeal from a Decision of an  
Immigration Judge

1. List Name(s) and "A" Number(s) of all Respondent(s)/Applicant(s):

Jacky CELICOURT, [REDACTED]

Staple, Check, or Money Order Here. Include Name(s) and "A" Number(s) on the face of the check or money order.

**WARNING:** Name and "A" Number(s) of every one appealing this Immigration Judge's decision must be attached to this Notice of Appeal. The name(s) and "A" number(s) listed will be the only ones considered to be the subject of the appeal.

2. I am ☒ the Respondent/Applicant ☐ DHS-ICE (Mark only one box.)

3. I am ☒ DETAINED ☐ NOT DETAINED (Mark only one box.)

4. My last hearing was at Boston, MA (Location, City, State)

5. What decision are you appealing?

Mark only one box below. If you want to appeal more than one decision, you must use more than one Notice of Appeal (Form EOIR-26).

☒ I am filing an appeal from the Immigration Judge's decision *in merits proceedings* (example: removal, deportation, exclusion, asylum, etc.) dated 04/10/2019

☐ I am filing an appeal from the Immigration Judge's decision *in bond proceedings* dated \_\_\_\_\_ (For DHS use only: Did DHS invoke the automatic stay provision before the Immigration Court? ☐ Yes ☐ No.)

☐ I am filing an appeal from the Immigration Judge's decision *denying a motion to reopen or a motion to reconsider* dated \_\_\_\_\_

(Please attach a copy of the Immigration Judge's decision that you are appealing.)

Form EOIR-26  
Revised Oct. 2016

6. State in detail the reason(s) for this appeal. Please refer to the General Instructions at item F for further guidance. You are not limited to the space provided below; use more sheets of paper if necessary. Write your name(s) and "A" number(s) on every sheet.

Please see attached reason for this appeal.

*(Attach additional sheets if necessary)*

**WARNING:** You must clearly explain the specific facts and law on which your appeal is based. The Board will only consider arguments you provide in your appeal. If you do not clearly explain the facts and law on which your appeal is based, the Board may deny your appeal. If you do not clearly explain the facts and law on which your appeal is based, the Board may deny your appeal. If you do not clearly explain the facts and law on which your appeal is based, the Board may deny your appeal.

7. Do you desire oral argument before the Board of Immigration Appeals? ☐ Yes ☒ No
8. Do you intend to file a separate written brief or statement after filing this Notice of Appeal? ☒ Yes ☐ No

**WARNING:** If you mark "Yes" in item 7, you should also file a separate written brief or statement after filing this Notice of Appeal. If you mark "Yes" in item 8, you will be expected to file a separate written brief or statement after filing this Notice of Appeal. If you do not file a separate written brief or statement after filing this Notice of Appeal, the Board may deny your appeal. If you do not file a separate written brief or statement after filing this Notice of Appeal, the Board may deny your appeal. If you do not file a separate written brief or statement after filing this Notice of Appeal, the Board may deny your appeal.

9.



X

*Melanie Chaput*

Signature of Person Appealing  
(or attorney or representative)

05/09/2019

Date

Form EOIR-26  
Revised Oct 2016



10.

<b>Mailing Address of Respondent(s)/Applicant(s)</b>
Jacky CELICOURT
(Name)
c/o Strafford County HOC, 266 County Farm Rd
(Street Address)
(Apartment or Room Number)
Dover, NH 03820
(City, State, Zip Code)
603-742-3310
(Telephone Number)

11.

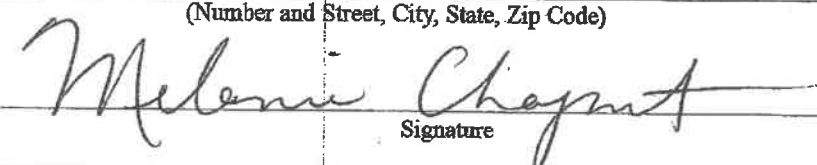
<b>Mailing Address of Attorney or Representative for the Respondent(s)/Applicant(s)</b>
Melanie M Chaput
(Name)
Chaput Law Office 46 Bridge Street
(Street Address)
Unit G
(Suite or Room Number)
Nashua, NH 03060
(City, State, Zip Code)
603-883-0085
(Telephone Number)

**NOTE:** You must notify the Board within five (5) working days if you need to change your address or telephone number. You must use the Change of Address Form (Board of Immigration Appeals Form EOIR-26).

**NOTE:** If an attorney or representative signs this appeal, please attach the following documents: a copy of the Notice of Entry of Appearance as Attorney or Representative before the Board of Immigration Appeals (Form EOIR-27).

12.

**PROOF OF SERVICE (You Must Complete This)**

I	Melanie M Chaput	mailed or delivered a copy of this Notice of Appeal
	(Name)	
on	05/09/2019	DHS-ICE, Office of Assistant Chief Counsel
	(Date)	(Opposing Party)
at	15 New Sudbury Street, Room 425, Government Center, JFK Federal Building, Boston, MA 02203	
	(Number and Street, City, State, Zip Code)	
		Signature

**NOTE:** If you are the Respondent or Applicant, the Opposing Party is the Assistant Chief Counsel of the Board.

**WARNING:** If you do not complete this section properly, your appeal will be considered incomplete.

**WARNING:** If you do not attach a fee or a completed Fee Waiver Request form EOIR-26, your appeal may be rejected or dismissed.

**HAVE YOU?**

- ☒ Read all of the General Instructions
- ☒ Provided all of the requested information
- ☒ Completed this form in English
- ☒ Provided a certified English translation for all non-English attachments
- ☒ Signed the form

- ☒ Served a copy of this form and all attachments on the opposing party
- ☒ Completed and signed the Proof of Service
- ☐ Attached the required fee or Fee Waiver Request
- ☒ If represented by attorney or representative, attach a completed and signed EOIR-27

**Addendum to Notice of Appeal to the Board of Immigration Appeals of  
Decision of Immigration Judge  
Form EOIR-26**

**Respondent: Jacky CELICOURT**  
[REDACTED]

**Question #6: Details regarding reasons for Appeal (continued)**

The Immigration Judge (IJ) erred in denying the Respondent's Applications for Asylum pursuant to INA §208 and 8 U.S.C. §1158(a); Withholding of Removal pursuant to INA §243(h), 8 U.S.C. §1253(h); and for Withholding of Removal under the Torture Convention, pursuant to 8 C.F.R. §208.16(c).

The IJ found the Respondent to be a credible witness. However, he determined that despite his credible testimony and over 300 pages of documentation supporting his claim that he did not qualify for relief from removal.

The IJ erred in failing to find that the Respondent suffered from past persecution on account of his political opinion and membership in a particular social group. Despite the judge's finding that the Respondent's credible testimony established that he had suffered from past persecution, the IJ concluded that he had not proven that the necessary nexus to his political opinion had been shown. [REDACTED]

However, the judge did not properly apply the standard set forth in 8 U.S.C. 1158 (INA 208) which states that in order "To establish that the applicant is a refugee within the meaning of such section, the applicant must establish that race, religion, nationality, membership in a particular social group, or political opinion was or will be **at least one central reason** for persecuting the applicant. (emphasis added)" In this case, the IJ misapplied the standard and determined that a nexus had not been established, despite the overwhelming evidence provided by the Respondent that he suffered past persecution on the basis of his political opinion. The IJ failed to apply the standard set forth in *Ndayshimiye v. Att'y Gen.*, 557 F.3d 124 (3d. Cir. 2009). The IJ ignored the Board's guidance that determined that the Respondent need not show that his political opinion was the "dominant" motivation for persecution. Instead, Congress' use of the phrase "one central reason" rather than "the central reason was deliberate." Mixed reasons test should not depend on a hierarchy of central motivations; one among many. The Respondent showed through his credible testimony that his persecutors were motivated by his political opinion as

**Addendum to Notice of Appeal to the Board of Immigration Appeals of  
Decision of Immigration Judge  
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**Respondent:** Jacky CELICOURT  
[REDACTED]

**Question #6: Details regarding reasons for Appeal (continued)**

there was no other reasonable explanation for their attack on him. Neither the DHS or the IJ proffered any alternative explanation for why the Respondent was persecuted.

The IJ did not apply the standard put forth in Matter of S-P-, 21 I&N Dec. 486 (BIA 1996) which states that circumstantial evidence of nexus can include: "Treatment of others in the population who might be confronted by government agents in similar circumstances". In addition, the BIA stated that the IJ must consider "The extent to which suspected political opponents are subjected to arbitrary arrest, detention, and abuse." The record established that [REDACTED]

[REDACTED] Thus, based on the totality of the circumstances he proved that he suffered from past persecution on the basis of his political opinion.

In addition, the IJ erred in failing to find that the Respondent proved through clear and convincing evidence that he feared future persecution in Haiti based on his political opinion, [REDACTED]

[REDACTED] The Fifth Circuit has clearly stated that, "In order to prove that political opinion was one central reason for persecution, "the alien 'must demonstrate through some evidence, either direct or circumstantial, that the persecutors [knew] of his (the alien's) political opinion and [have] or will likely persecute him because of it.'" Sharma, 729 F.3d at 412 (second alteration in original) (quoting Ontunez-Tursios v. Ashcroft, 303 F.3d 341, 351 (5th Cir. 2002)). Under the provisions of the REAL ID Act, which apply here, the protected characteristic must be "at least one central reason" for the persecution. 8 U.S.C. § 1158(b)(1)(B)(i). Through the Respondent's credible testimony and documentary evidence the Respondent showed that he fears future persecution on account of his political opinion. [REDACTED]


[REDACTED] The IJ failed to consider the Respondent's fear of future persecution based on his political opinion.

**Addendum to Notice of Appeal to the Board of Immigration Appeals of  
Decision of Immigration Judge  
Form EOIR-26**

**Respondent: Jacky CELICOURT**  


**Question #6: Details regarding reasons for Appeal (continued)**

Furthermore, the IJ erred in failing to address his claim that he would suffer future persecution based on his membership in a particular social group. The Board in the Matter of W-G-R, 26 I&N Dec. 208 (BIA 2014), clarified that “the ‘social visibility’ element required to establish a cognizable “particular social group” does not mean literal or “ocular” visibility, that element is renamed as ‘social distinction.’ *Matter of E-A-G-*, 24 I&N Dec. 591 (BIA 2008); *Matter of S-E-G-*, 24 I&N Dec. 579 (BIA 2008); *Matter of A-M-E- & J-G-U-*, 24 I&N Dec. 69 (BIA 2007); and *Matter of C-A-*, 23 I&N Dec. 951 (BIA 2006), clarified.” In addition, it established that “an applicant for asylum or withholding of removal seeking relief based on ‘membership in a particular social group’ must establish that the group is (1) composed of members who share a common immutable characteristic, (2) defined with particularity, and (3) socially distinct within the society in question.” The Immigration Judge did not properly apply the precedents in the Fifth Circuit. In *Revençu* the court held that a Respondent “must demonstrate that he is a member “of a group of persons that share a common immutable characteristic that they either cannot change or should not be required to change because it is ‘fundamental to their individual identities or consciences.’” *Hernandez-De La Cruz v. Lynch*, 819 F.3d 784, 786 (5th Cir. 2016) (quoting *Orellana-Monson v. Holder*, 685 F.3d 511, 518 (5th Cir. 2012)). in *Paiz-Morales v. Lynch*, 795 F.3d 238 (1st Cir. 2015), and *Mendez-Barrera v. Holder*, 602 F.3d 21, 26 (1st Cir. 2010). *Revençu v. Sessions*, 895 F.3d 396, 401 (5th. Cir. 2018).



The IJ failed to consider the clear and convincing evidence that the Respondent fears future persecution based on his imputed political opinion and membership in a particular social group. The Respondent established he had a well-founded fear of future persecution, he submitted evidence that he had both a subjective and objective fear of returning to Haiti. The Respondent submitted overwhelming evidence and country reports showed that the Respondent had an objective fear of returning to Haiti. Once a subjective fear of persecution is established,

**Addendum to Notice of Appeal to the Board of Immigration Appeals of  
Decision of Immigration Judge  
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**Respondent: Jacky CELICOURT**  


**Question #6: Details regarding reasons for Appeal (continued)**

the applicant need only show that such fear is grounded in reality to meet the objective element of the test; that is, he must present credible, specific and detailed evidence that a reasonable person in his position would fear persecution. The applicant's fear may be well-founded even if there is only a slight, though discernible, chance of persecution. INS v. Cardoza-Fonseca, 480 U.S. at 431 (1987). The IJ ignored evidence that was submitted that showed that the Respondent met this requirement, including but not limited to evidence that similarly situated individuals to the Respondent had been persecuted.

The IJ failed to consider the Respondent's arguments in regard to his claim for Withholding of Removal based on the Torture Convention. The IJ provided almost no analysis whatsoever of his claim under the Torture Convention. He failed to consider evidence presented

  
Thus, the IJ improperly denied his claim for relief under the Torture Convention.

The Respondent showed by clear and convincing evidence and that it was more likely than not that he would suffer from persecution if he returned to Haiti and thus, the IJ incorrectly held that he did not qualify for Withholding of Removal. The IJ finding that the Respondent was not eligible for asylum mistakenly concluded that he did not qualify for Withholding of Removal. In fact, the Respondent presented evidence that met the higher standard that this form of relief requires and should have been deemed qualified for both forms of relief.

Since the Respondent does not yet have the transcript of the proceeding, the Respondent does not limit the issues of appeal to those contained in this document upon further motion to the Board.

**CERTIFICATE OF SERVICE**

I hereby certify that on July 3, 2019, the above-captioned document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants.

/s/ Susan M. Finegan

Susan M. Finegan